



DECIDED ON : 30.08.1943

Vs.

CORAM :

THE HON'BLE MR. B. N. DHOUNDIYAL, MEMBER (A)

Shri Pratap Rai Counsel for Respondents

Hon'ble Mr. Justice S. K. Dhaon :-

2. The respondent is duly served and is represented by a learned counsel. Counsel for the parties have been heard. We are proceeding to dispose of this application finally.

7

the Labour Court had directed the counsel for the petitioners to file some sort of chart before it and for that purpose time had been taken on three occasions by the counsel for the Northern Railway. it is also recited in the impugned order that the counsel gave an undertaking that if the chart was not produced, it will be open to the court to make its own assessment of the amount to be paid to the respondent, Mahipal Singh. The chart was not filed. We may extract the relevant portion of the order :-

"...In view of the submissions made by the representative for the management on three different dates that in case they fail to produce the chart the claim filed by the workman may be computed accordingly. I, therefore, am left with no option but to accept the claim of the workman and while accepting the same order the management to pay a sum of Rs.28561.20p plus costs of Rs.200/- awarded during the proceedings with cost of this litigation to the workman within two months failing which they will be liable to pay interest @ 12%."

4. We may note that the claim of the respondent was to the tune of Rs.40,000/- odd. A bare reading of the order aforequoted discloses that the Labour Court felt that its responsibility to apply its mind to the contents of the application of the respondent and thereafter compute the amount ceased as the chart had not been filed. Chart or no chart, the Labour Court was under a legal obligation to pass an order in accordance with 33-C(2). It had to record a finding that the respondent had an entitlement and that entitlement had been provided for and he (respondent) was entitled to be paid a certain amount. The Presiding Officer clearly failed to do this exercise. He ordered that a sum of Rs.25,561.20 should be paid to the respondent without giving any reason. We have already stated that the claim of

Sy

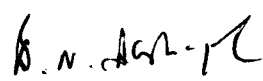
the respondent was for Rs.40,000/- odd. The Labour Court had not accepted the entire claim and instead directed that a sum of Rs.28,561.20 shall be paid to the respondent. The basis on which the computation has been done is not indicated in the order.

5. We are satisfied that the order was passed mechanically and without application of mind. The order is not sustainable.

6. Considerable time has elapsed and the respondent, Mahipal Singh, may be suffering, if some amount is really payable to him. We, therefore, direct the Presiding Officer of the Labour Court to pass a ~~fresh~~ order as expeditiously as possible but not beyond a period of one month from the date of receipt of a certified copy of this order. While doing so, the Presiding Officer shall give an opportunity of hearing to both the parties.

7. We direct the parties, and the petitioners in particular, to appear before the Presiding Officer of the Labour Court on 15.9.1993. On that day, it will be open to the Presiding Officer to either proceed with the hearing of the case or to fix any other date convenient to it.

8. With these directions, this application is disposed of finally. No orders as to costs.


(B. N. Dhoundiyal)
Member (A)


(S. K. Dhaon)
Vice Chairman (J)

as